

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH CAIN WILLIS,

Defendant-Appellant.

UNPUBLISHED

February 2, 2006

No. 256563

Calhoun Circuit Court

LC No. 2003-004224-FH

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

MEMORANDUM.

Defendant Joseph Willis appeals by right from his jury conviction of carrying a concealed weapon.¹ We affirm. We decide this appeal without oral argument.²

Willis was stopped by a police officer for inoperable taillights and an inoperable turn signal. Willis was driving a pickup truck and was accompanied by two passengers. One of Willis' passengers admitted that a warrant had been issued for her arrest and informed the officer that there was a handgun in the truck's glove compartment. The unlocked glove compartment contained a nine-millimeter handgun with live ammunition in the chamber, and an additional handgun magazine. Willis testified that he carried the gun in his truck to prevent it from being stolen.

The crime of carrying a concealed weapon, as applied to this case, requires that the prosecutor prove that Willis carried a pistol in a vehicle operated by him.³ Willis does not dispute that this element was satisfied; he freely admits that he was carrying his pistol in his truck. However, he argues that the trial court erred when it refused to instruct the jury on his defense of "mere transportation." We review claims of instructional error de novo.⁴

¹ MCL 750.227.

² MCR 7.214(E).

³ MCL 750.227(2); *People v Henderson*, 391 Mich 612, 616; 218 NW2d 2 (1974).

⁴ *People v Hall*, 249 Mich App 262, 269; 643 NW2d 253 (2002).

For the mere transportation defense to apply, the pistol must be unloaded, be contained in a closed case designed for the storage of firearms, and “not readily accessible to the occupants of the vehicle” when the vehicle does not have a trunk.⁵ The circumstances here do not meet any of these requirements. Willis’s own testimony indicated that he placed the pistol in the glove compartment of his truck. The pistol was, therefore, readily accessible to Willis as an occupant of the vehicle. Further, the pistol was neither unloaded nor contained in a closed case. We conclude that there was no factual basis for an instruction to the jury on the transportation defense.

We affirm.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette

⁵ MCL 750.231a(1)(e).